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10/784,052	02/19/2004	Bruce J. Wells	040135-000100US	6841

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

ARAUQUE JR, GERARDO

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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07/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/784,052	WELLS, BRUCE J.	
Examiner	Art Unit		
Gerardo Araque Jr.	3629		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 April 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 10-38 and 53-64 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 10-38 and 53-64 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application
6) Other: _____.
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DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

2. **Claims 11 and 23** are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The applicant has already claimed that the fluid container contains a fluid therein.

3. **Claim 31** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The applicant has already disclosed the communication process involved in **claim 31**.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 18 – 20 and 23** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. **Claim 18** is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: How does the method determine how much fluid is remaining in the fluid container?

7. In regards to **claim 23**, the Examiner asserts that is not possible for a fluid container to be a plurality of fluid containers. That is to say, how can 1 container be many containers?

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 53 – 57** are rejected under 35 U.S.C. 102(b) as being anticipated by **Titus (US Patent 5,636,653)**.

10. In regards to **claim 53**, **Titus** discloses in a relationship between a fluid supplier and a user, a computer software product for facilitating the distribution of industrial fluids, the computer software product being embodied on a computer readable medium and including instructions executable by a computer processor to:

receive information about a fluid being dispensed from a fluid distribution station

(Col. 8 Lines 42 – 67);

determine the amount of fluid dispensed from the fluid distribution station **(Col. 8 Lines 42 – 67; Col. 14 – 15 Lines 67 – 7);**

transmit information about the dispensed fluid **(Col. 8 Lines 42 – 67);** and
account for the dispensed fluid **(Col. 8 Lines 42 – 67).**

11. In regards to **claim 54, Titus** discloses wherein at least part of the computer software product is configured to be executed on a processor incorporated within a fluid distribution station **(Col. 8 Lines 42 – 67).**

12. In regards to **claim 55** **Titus** discloses wherein at least part of the computer software product is configured to be executed on a processor incorporated within a control terminal **(Col. 8 Lines 42 – 67).**

13. In regards to **claim 56, Titus** discloses wherein the control terminal is located at a facility operated by the user **(Col. 8 Lines 1 - 17).**

14. In regards to **claim 57, Titus** discloses wherein at least part of the computer software product is configured to be executed on a processor incorporated within a server operated by the fluid supplier **(Col. 9 Lines 20 – 23).**

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 10 – 14, 16 – 21, 23 – 26, 30 – 35, and 60 – 64** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Air Products** (<http://web.archive.org/web/20040201235722/www.airproducts.com/index.asp>) in view of **Titus (US Patent 5,636,653)**. 15, 22, 58 hatton 28 – 29 36 – 38 benson 27 safeway

17. In regards to **claims 10, 21, 35, Air Products** discloses in a relationship between a fluid supplier and a user, a method of distributing an industrial fluid, the method comprising:

providing at the user's location a fluid container having contained therein an industrial fluid, wherein the fluid container and the industrial fluid contained therein are owned by the fluid supplier

(<http://www.airproducts.com/AboutUs/CompanyBackground/AnOverview.htm>); and

wherein it is **obviously included** to allow the user to dispense an amount of industrial fluid from the fluid container (**Samsung**).

However, **Air Products** does not disclose:

as the amount of industrial fluid is being dispensed from the fluid container,
determining the amount of industrial fluid dispensed; and
accounting for the industrial fluid dispensed from the fluid container.

Titus, however, discloses a method and system for monitoring the amount of fluid used by a user. Specifically, **Titus** discloses a fluid metering apparatus and method wherein it accurately meters delivery of various types of fluid, including fluids in a gaseous or liquid phase (**Col. 5 Lines 31 – 35**). Although, **Titus** discloses a method

and system for monitoring the amount of fluid being consumed over a pipe system the Examiner asserts that **Titus** teaches that it is old and well known to monitor fluid consumption and reporting the amount of fluid dispensed in a relationship between a supplier and user. Moreover, **Titus** discloses that a significant advantage of the fluid metering apparatus and method of the present invent concerns the ability to control and accurately measure delivery of fluid from a fluid source to a multiplicity of user locations. It is noted that the fluid source may represent a utility, a distribution sub-station, or one or more gas or water mains, for example (**Col. 8 Lines 1 – 17**). Furthermore, **Titus** also discloses that the delivery of the fluid can be controlled locally by the individual dispensing unit and remotely by the managing entity of the fluid source, including dispensing the fluid to a fluid dispensing unit (**Col. 8 Lines 1 – 17**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of **Air Products** in view of the teachings of **Titus** in order to provide an effective means of accurately monitoring fluid consumption at a fluid distribution center so that a supplier can accurately bill a user for the fluid dispensed, for example.

18. In regards to **claims 11 and 23**, **Air Products** discloses wherein providing at the user's location a fluid container having contained therein an industrial comprises transporting the fluid container to the user's location while the fluid container has contained therein the industrial fluid
(<http://www.airproducts.com/AboutUs/CompanyBackground/AnOverview.htm>).

19. In regards to **claims 12 – 14 and 24**, **Titus** discloses that the system can be used for any type of fluid, whether liquid or gas.
20. In regards to **claim 16**, **Titus** discloses wherein accounting for the industrial fluid dispensed from the fluid container comprises billing the user for the industrial dispensed from the fluid container (**Col. 7 Lines 31 – 35**).
21. In regards to **claim 17**, **Titus** discloses wherein accounting for the industrial fluid dispensed from the fluid container comprises communicating to the fluid supplier information about the industrial fluid dispensed from the fluid container (**Col. 8 Lines 54 – 58; Col. 9 Lines 20 – 23**).
22. In regards to **claims 18 and 25**, it is old and well known to determine the amount of fluid dispensed in a container when the container has a given volume in that the container must have some type of gauge to readout the amount of fluid in the container. That is to say, a supplier is aware of the type of containers that it ships and the weight or pressure of the container when the container is full. One skilled in the art would know how to determine the amount of fluid dispensed by subtracting the amount left in the container, from the gauge readout for example, from the amount delivered to the user, and vice versa.
23. In regards to **claims 19 – 20 and 26, the combination of Air Products and Titus** discloses wherein accounting for the amount of industrial fluid dispensed from the fluid container comprises, if the amount of industrial fluid remaining in the fluid container is less than a threshold value, recording an order for additional industrial fluid (**Col. 9 Lines 20 – 23; Col. 11 Lines 15 – 40; Col. 15 – 29; wherein the system records the**

amount of fluid dispensed and if the fluid, in this case a gas, were to drop below a specific pressure, the system would deliver more of the fluid to meet the demand required).

24. In regards to **claim 30 – 31**, **Titus** discloses further comprises providing a control terminal in communication with the fluid distribution station, the control terminal being configured to receive data from the fluid distribution station about the fluid dispensed from the fluid container (**Col. 8 Lines 50 – 59**).

25. In regards to **claim 32 – 34**, **Titus** discloses further comprising transmitting from the control terminal an authorization to dispense fluid from the fluid container (**Col. 14 – 15 Lines 25 – 38**; **wherein the pressure of the system is sent to the control terminal to a provider and if the fluid pressure drops below P_{DEMAND} , the provider would authorize an increase in fluid provided in order to meet the predetermined P_{DEMAND}**).

26. In regards to **claims 60 – 64**, **Air Products**, discloses that it is old and well known to provide information to a web browser to account for amount of fluid dispensed in order to provide the supplier with information regarding the need for more fluid (<http://web.archive.org/web/20040404214450/www.airproducts.com/Responsibility/EHS/EnvironmentalProtection/sara312.htm>;
<http://web.archive.org/web/20070625124236/http://www.airproducts.com/NR/exeres/C56BBA62-6BE3-4297-AD0C-86014B2CCB82.htm>).

27. **Claim 58** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Titus** (**US Patent 5,636,653**) in view of **Hatton** (**US Patent 6,382,032 B1**).

28. In regards to **claim 58**, the **Titus** fails to disclose wherein accounting for the industrial fluid dispensed from the fluid container comprises transferring from the fluid supplier ownership of the industrial fluid dispensed from the fluid container.

However, **Hatton** discloses that it is old and well known to transfer ownership for the material product in a flow stream, i.e. when metering the amount of fluid being consumed by a user (**Col. 1 Lines 27 – 31**). Such a method of metering provides an accuracy suitable for contract sale of gaseous products such that not significant cost error occurs in a contract sale.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to apply the teaching of transferring ownership as taught by **Hatton** to the **Titus** in order to prevent any significant monetary cost error.

29. **Claims 59** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Titus** (**US Patent 5,636,653**) in view of **Air Products**

(<http://web.archive.org/web/20040201235722/www.airproducts.com/index.asp>).

30. In regards to **claims 59**, **Titus** discloses wherein at least part of the computer software product is configured to be executed on a web server (**Col. 9 Lines 20 – 23**).

However, **Titus** fails to disclose wherein the instructions executable to account for the dispensed fluid comprises instructions to provide information about the dispensed fluid to a web browser in communication with the web server.

Air Products, however discloses that it is old and well known to provide information to a web browser to account for amount of fluid dispensed in order to provide the supplier with information regarding the need for more fluid

(<http://web.archive.org/web/20040404214450/www.airproducts.com/Responsibility/EHS/EnvironmentalProtection/sara312.htm>;
<http://web.archive.org/web/20070625124236/http://www.airproducts.com/NR/exeres/C56BBA62-6BE3-4297-AD0C-86014B2CCB82.htm>).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Titus** in view of the teachings of **Air Products** in order to provide an alternate means of providing information to a fluid supplier.

31. **Claims 15, 22, and 58** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Air Products**

(<http://web.archive.org/web/20040201235722/www.airproducts.com/index.asp>) in view of **Titus** (US Patent 5,636,653) in view of **Hatton** (US Patent 5,494,191).

32. In regards to **claims 15, 22, and 58**, the **combination of Air Products and Titus** fails to disclose wherein accounting for the industrial fluid dispensed from the fluid container comprises transferring from the fluid supplier ownership of the industrial fluid dispensed from the fluid container.

However, **Hatton** discloses that it is old and well known to transfer ownership for the material product in a flow stream, i.e. when metering the amount of fluid being consumed by a user (**Col. 1 Lines 27 – 31**). Such a method of metering provides an accuracy suitable for contract sale of gaseous products such that not significant cost error occurs in a contract sale.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to apply the teaching of transferring ownership as taught by

Hatton to the **combination of Air Products and Titus** in order to prevent any significant monetary cost error.

33. **Claims 28 – 29 and 36 – 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Air Products**

(<http://web.archive.org/web/20040201235722/www.airproducts.com/index.asp>) in view of **Titus (US Patent 5,636,653)** in further view of **Benson (US Patent 5,494,191)**.

34. In regards to **claims 28 – 29**, **Titus** discloses that the distribution sub-station provides natural gas to a plurality of residential homes each having a fluid dispensing unit and a plurality of gas-consuming appliances coupled to respective control units.

However, **Titus** fails to disclose wherein the fluid distribution station is mobile or has a means for locomotion.

Benson discloses that it is old and well known for fluid dispensing units to be mobile and have means for locomotion (**Fig. 5 – 6**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teachings of **Benson** that the fluid dispensing units as taught by the **combination of Air Products and Titus** are old and well known to be mobile and have a means of locomotion in order to have the flexibility of better distributing the fluid.

35. In regards to **claims 36 – 38**, **Titus** discloses that the distribution sub-station provides natural gas to a plurality of residential homes each having a fluid dispensing unit and a plurality of gas-consuming appliances coupled to respective control units.

However, **Titus** fails to disclose:

coupling with a second container with the fluid distribution station; and
pressuring the second container with a gas
dispensing the gas from the second container.

Benson discloses that it is old and well known for fluid dispensing units to have a second container with a fluid distribution station and pressurizing the second container with a gas (**Col. 4 Lines 22 – 26**). Furthermore, it is old and well known to provide some type of pressure source to be fed into a container that is dispensing a liquid in order to prevent the dispensing container from collapsing as the fluid is dispensed.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teachings of **Benson** that the fluid dispensing units as taught by **the combination of Air Products and Titus** are old and well known to have a second container coupled to the fluid distribution station in order for the fluid distribution to have some type of positive pressure within its container and prevent any negative pressure from building up and preventing the container from collapsing.

36. **Claims 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Air Products**

(<http://web.archive.org/web/20040201235722/www.airproducts.com/index.asp>) in view of **Titus (US Patent 5,636,653)** in further view of **Safeway** (http://findarticles.com/p/articles/mi_hb4331/is_200006/ai_n15097473).

37. In regards to **claim 27**, **Titus** discloses that a fluid source includes wherein providing a fluid distribution station comprises leasing the fluid distribution station to the user.

However, **Titus** does not disclose whether or not the distribution sub-station is leased.

Safeway, however, discloses that it is old and well known to lease distribution centers (http://findarticles.com/p/articles/mi_hb4331/is_200006/ai_n15097473). Although, **Safeway** does not disclose a fluid distribution station it can be appreciated that the concept of leasing out distribution centers is an old and well-known business practice so that a supplier would be able to focus on its business .

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the **combination of Titus and Air Products** in view of the teachings **Safeway** to lease a fluid distribution station in order for a supplier to focus on its business.

Response to Arguments

38. Applicant's arguments with respect to **claims 10 – 64** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure can be found in PTO-892 Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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6/25/07



DEAN T. NGUYEN
PRIMARY EXAMINER